

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

DEVONTAE NEWTON,

Defendant.

No. 18-cr-373 (RJS)
ORDER

RICHARD J. SULLIVAN, Circuit Judge:

On September 25, 2020, the Court sentenced Defendant Devontae Newton to 72 months' imprisonment, with credit for time served, to be followed by five years' supervised release. (Doc. No. 728.) On January 15, 2021, the Court received a letter from Newton in which he moved for compassionate release under 18 U.S.C. § 3582(c)(1)(A). (Doc. No. 776.) The Court denied that motion for compassionate release on January 29, 2021. (Doc. No. 781.) By the attached letter, which is dated August 3, 2021 and was received by the Court on August 13, 2021, Newton again moves for compassionate release under 18 U.S.C. § 3582(c)(1)(A). For the reasons set forth below, the motion is denied.

"The Court 'may not modify a term of imprisonment once it has been imposed except pursuant to statute.'" *United States v. Felix*, No. 12-cr-322 (RJS), 2020 WL 4505622, at *1 (S.D.N.Y. Aug. 4, 2020) (quoting *United States v. Roberts*, No. 18-cr-528 (JMF), 2020 WL 1700032, at *1 (S.D.N.Y. Apr. 8, 2020)). "Section 3582(c)(1)(A) provides one such exception, often referred to as 'compassionate release.'" *Id.* "Through that provision, the Court may 'reduce' a defendant's sentence where 'extraordinary and compelling reasons warrant such a reduction,' and such relief would be consistent with both the factors in 18 U.S.C. § 3553(a) and 'applicable

policy statements issued by the Sentencing Commission.” *Id.* (quoting 18 U.S.C. § 3582(c)(1)(A)).

As noted in the Court’s January 29, 2021 order, the § 3553(a) factors weigh strongly against granting early release. In particular, (i) “the nature and circumstances of the offense,” (ii) “the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense,” (iii) the need to “afford adequate deterrence to criminal conduct,” and (iv) the need “to protect the public from further crimes of the defendant,” all support leaving Newton’s recently imposed sentence intact.

In this new letter motion, Newton asserts that much has changed since the Court ruled on his previous motion. Specifically, he says that he has been prescribed medication because his blood pressure is high for a 22-year-old; he has been experiencing swelling in his legs and feet; he is taking allergy medication; and he is at a high risk of catching the Delta variant of the COVID-19 virus. But even assuming all of these facts to be true, they do not alter the balance of § 3553(a) factors. The reasons that the Court gave for imposing a 72-month sentence are just as applicable today as they were in September 2020. And while it is true that the ongoing pandemic has caused additional restrictions to be placed on BOP facilities, the Court specifically considered that fact and relied on it in imposing a below-Guidelines sentence in September 2020 (Doc. No. 772 at 41) and in denying Newton’s previous motion for compassionate release in January 2021 (Doc. No. 781 at 5).

Accordingly, because the Court remains convinced that Newton's 72-month sentence is appropriate in light of the § 3553(a) factors, and that granting Newton's request for compassionate release would undermine the objectives of sentencing, Newton's motion for compassionate release is respectfully DENIED. The Clerk of Court is directed to mail a copy of this order to Newton.

SO ORDERED.

Dated: August 23, 2021
New York, New York



RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation

August, 3rd 2021

Dear Honorable Judge Sullivan

I Devontae Newton am putting this motion for compassionate release due to my severe health reasonings. I know I recently put one in December but alot has changed since then. The first two weeks of January is when nurses at Orange County Jail in Goshen, New York put me on blood pressure medication because for me to be 22 years old my results have been coming back too high. I've been experiencing alot of swollen in my legs from beneath my ~~knees~~ knees to my feet. This happens occasionally about every two weeks. As of now I'm on Almodophine & when I got to Fort Dix I was prescribed a different blood pressure medication that I'm yet to know the name of. Also, I am on allergy medication for my eyes such as Zertex & Claritin. I'm a high risk of catching the virus because of that & this Compound just had a big wave of it where most of the inmates had it & is recovering or done recovered from it so the compound is still shutdown where the programs that goes on are at a standstill. With the programs I am eligible to take I would be home in about 15 months max. I served already more than 50% of my time, by the time you get this letter I will have 38 months in on a 72 month sentence. Is it possible I can finish my time on an ankle bracket monitor while on home confinement. I would have had my lawyer file the motion the proper way but since

You sentenced me on September 25th 2020
I haven't been able to get in contact with
him to even get my paperwork. There is
another virus called Delta happening & I
am trying to avoid catching it. Please
get back to me as soon as possible
Your honor.

Sincerely, Mr. Newton